

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 538 of 1999

in

MISC.CIVIL APPLICATION No 601 of 1999

with

CIVIL APPLICATION NO. 3690 OF 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE H.K.RATHOD

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

JK NAIR

Versus

PANKAJVALLY S DEVAN

Appearance:

NANAVATI ASSOCIATES for Appellants
MR RK MISHRA for Respondent No. 1
MR PRANAV G DESAI for Respondent No. 2
M/S PATEL ADVOCATES for Respondent No. 3

CORAM : MR.JUSTICE J.N.BHATT and
MR.JUSTICE H.K.RATHOD

Date of decision: 28/09/1999

ORAL JUDGEMENT

Admit. Service of notice of admission is waived by Mr. R.K.Mishra, the learned advocate appearing for the respondent. Upon consensus and after considering the fairness of the learned advocate Mr.Mishra for the respondents, without entering into the merits of the controversy of the impugned decision, the impugned order is hereby quashed and set aside so as to afford an opportunity of hearing to the appellant which could not be availed of on account of sickness note filed by the learned advocate for the appellants herein and that is the reason why the fairness shown by Mr. Mishra is appreciated.

In the result, without entering into merits of the the matter, this appeal is allowed and the impugned order is hereby quashed and set aside and the matter is remanded back to the learned Single Judge so as to determine the controversy and pass appropriate orders after affording an opportunity of hearing to the respective parties.

Learned advocate Mr. Gandhi has also assured us that he will cooperate in getting the matter heard expeditiously. Learned advocate Mr. Gandhi has also fairly made statement at the Bar that the status quo as on today qua respondent teacher in respect of the service condition shall be maintained till the rehearing of the interim relief. Learned advocate Mr. Mishra for the respondent-teacher has submitted that the respondent original petitioner, by virtue of the order, is attending the school but is not entrusted the work by the Management. Learned advocate Mr. Gandhi for the other side has not agreed to. However, he has fairly stated that full salary will be paid to the respondent-original petitioner until rehearing of the interim relief and, therefore, learned advocate Mr. Mishra has stated that until then, the respondent shall not attend.

In view of the above order on the appeal, the civil application shall not survive. Same is, therefore, disposed of. No order as to costs.

Dt.28.9.1999.

Vyas